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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2011-560**

13 **BETTY JEAN HUMBLE**
1688 Santiago Avenue
14 Napa, California 94558
Registered Nurse License No. 409686

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about March 31, 1987, the Board of Registered Nursing issued Registered
23 Nurse License Number 409686 to Betty Jean Humble (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought in this Accusation
25 and will expire on June 30, 2012, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 118, subdivision (b), of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY AND REGULATORY PROVISIONS

7. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

8. Section 2762 of the Code states:

“In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

...

“(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

“(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.”

9. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

10. California Code of Regulations, title 16, section 1444, states:

“A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.”

COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

1 FIRST CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 (Bus. & Prof. Code §§ 2761(a), 2762(b))

4 12. Respondent has subjected her registered nurse license to disciplinary action under
5 Code section 2761, subdivision (a), as defined by Code section 2762, subdivision (b), in that she
6 engaged in unprofessional conduct by using alcohol in a dangerous manner. The circumstances
7 are as follows:

8 13. On or about February 24, 2004, at approximately 8:22 p.m., a police officer from the
9 Napa Police Department responded to a single vehicle accident at the intersection of Patrick Road
10 and Borrette Lane in Napa, California. The officer identified Respondent as the driver of the
11 vehicle and, upon contacting Respondent at the scene of the accident, the officer noticed that
12 Respondent had slurred speech and bloodshot eyes. When the officer asked Respondent whether
13 she had been drinking, Respondent said no. The officer asked Respondent several more questions
14 and conducted four different field sobriety tests, all of which Respondent failed to perform
15 satisfactorily. Respondent was arrested for suspicion of driving under the influence. Respondent
16 declined to take a preliminary alcohol screening. Respondent was taken to the police station
17 where she took two Evidential Portable Alcohol System breath tests. The first test showed that
18 Respondent had a blood alcohol content of .20 percent, and the second test showed a blood
19 alcohol content of .18 percent.

20 SECOND CAUSE FOR DISCIPLINE

21 (Conviction)

22 (Bus. & Prof. Code §§ 490, 2761(f), 2762(c); Cal. Code Regs, tit. 16, § 1444)

23 14. Complainant realleges the allegations contained in paragraphs 12 and 13 above, and
24 incorporates them by reference as if fully set forth.

25 15. Respondent has subjected her registered nurse license to disciplinary action under
26 Code sections 490, 2761, subdivision (f), and 2762, subdivision (c), as well as California Code of
27 Regulations Title 16, section 1444 in that she was convicted of a crime involving the
28 consumption of alcohol which is substantially related to the qualifications, functions, and duties
of a registered nurse. Specifically, on or about May 19, 2004, in a criminal proceeding entitled

1 *The People of the State of California v. Betty Jean Humble*, in the Napa County Superior Court,
2 Case Number CR117166, Respondent was convicted by plea of nolo contendere to one count of
3 violating California Vehicle Code section 23151, subdivision (b) (driving while having a .20
4 percent or higher blood alcohol). Respondent was sentenced to two days in jail, ordered to pay
5 fines and restitution, and ordered to complete an alcohol and drug program. Respondent was also
6 placed on probation for five years. Under the terms of her probation, Respondent was prohibited
7 from drinking alcoholic beverages to excess and from operating a motor vehicle with a
8 measureable amount of alcohol in her blood. The terms of Respondent's probation required her
9 to submit to a blood, breath, or urine test if requested by any law enforcement or probation
10 officer.

11 THIRD CAUSE FOR DISCIPLINE

12 (Unprofessional Conduct)

13 (Bus. & Prof. Code §§ 2761(a), 2762(b))

14 16. Respondent has subjected her registered nurse license to disciplinary action under
15 Code section 2761, subdivision (a), as defined by Code section 2762, subdivision (b), in that she
16 engaged in unprofessional conduct by using alcohol in a dangerous manner. The circumstances
17 are as follows:

18 b. On or about July 30, 2006, at approximately 9:53 a.m., Respondent was driving
19 Northbound on Linda Vista Avenue in Napa, California. An officer from the Napa Police
20 Department was traveling behind Respondent's vehicle and noticed that Respondent's vehicle
21 registration expired in July 2006. After running a registration check, the officer discovered that
22 Respondent's vehicle registration had expired on July 14, 2006. Just before the officer was
23 planning to conduct a traffic stop of Respondent's vehicle, Respondent turned into Saint Johns
24 Church on Linda Vista Avenue. The officer followed Respondent to the church. Respondent
25 quickly parked and exited her vehicle. As Respondent was walking away from her vehicle, the
26 officer approached Respondent and explained that he needed to speak to her about her vehicle.
27 Respondent stated that she was on her way to church. The officer explained that he was
28 conducting a traffic stop, and that Respondent needed to stay close to her vehicle. In the course

1 of speaking with Respondent, the officer detected a strong odor of alcohol on Respondent's
2 breath and person. The officer also noticed that Respondent's speech was slow and deliberate,
3 and her eyes were glazed over and had a red and yellow tint. When asked by the officer whether
4 she was on parole, Respondent admitted that she was on parole with terms not to drink alcohol.
5 Napa dispatch confirmed that Respondent was on probation with terms not to drink alcohol. A
6 second officer arrived at the scene with a preliminary alcohol screening device (PASD), and the
7 first officer administered a PASD test pursuant to the requirements of Respondent's probation.
8 The PASD device showed that Respondent had a blood alcohol content of .211 percent. The first
9 officer conducted a series of field sobriety tests, all of which Respondent failed to perform
10 satisfactorily. The first officer concluded that Respondent was not in a condition to safely operate
11 her vehicle, and Napa dispatch confirmed that Respondent had an outstanding warrant.
12 Respondent was arrested and taken to jail, where she consented to a blood test.

13 FOURTH CAUSE FOR DISCIPLINE

14 (Conviction)

15 (Bus. & Prof. Code §§ 490, 2761(f), 2762(c); Cal. Code Regs, tit. 16, § 1444)

16 17. Complainant realleges the allegations contained in paragraph 16, and incorporates
17 them by reference as if fully set forth.

18 18. Respondent has subjected her registered nurse license to disciplinary action under
19 Code sections 490, 2761, subdivision (f), and 2762 subdivision (c), as well as California Code of
20 Regulations Title 16, section 1444 in that she was convicted of a crime involving the
21 consumption of alcohol which is substantially related to the qualifications, functions, and duties
22 of a registered nurse. Specifically, on or about November 2, 2006, in a criminal proceeding
23 entitled *The People of the State of California v. Betty Jean Humble*, in the Napa County Superior
24 Court, Case Number CR131182, Respondent was convicted by plea of nolo contendere to one
25 count of violating California Vehicle Code section 23152, subdivision (a) (driving under the
26 influence of alcohol), with a special enhancement of California Vehicle Code section 23578
27 (driving with a blood alcohol level of .15% or higher), and one count of violating California
28 Vehicle Code section 14601.1, subdivision (a) (driving when privilege suspended or revoked).

1 Respondent was sentenced to 44 days in jail, ordered to complete an 18 month alcohol and drug
2 program, and ordered to pay fines and restitution. Respondent was also placed on probation for
3 five years and prohibited from drinking or possessing alcoholic beverages during that time.

4 PRAYER

5 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
6 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

7 1. Revoking or suspending Registered Nurse License Number 409686, issued to Betty
8 Jean Humble;

9 2. Ordering Betty Jean Humble to pay the Board of Registered Nursing the reasonable
10 costs of the investigation and enforcement of this case, pursuant to Business and Professions
11 Code section 125.3;

12 3. Taking such other and further action as deemed necessary and proper.
13
14

15 DATED: 12/22/10

Louise R. Bailey
16 LOUISE R. BAILEY, M.ED., RN
17 Executive Officer
18 Board of Registered Nursing
Department of Consumer Affairs
State of California
19 Complainant

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